

78CV5967-ELK-0 *Order*
FILED
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
U. S. DISTRICT COURT E.D. N.Y.

★ OCT 19 1998 ★

TIME AM.
P.M.

IN THE MATTER OF THE APPLICATION
OF DAVID SCHREIBER AND REBECCA T.
SCHREIBER FOR AN ORDER QUASHING AN
ADMINISTRATIVE SUBPOENA ISSUED BY
THE SECURITIES AND EXCHANGE
COMMISSION

Civil No. 98-5969

VERIFIED OPPOSITION OF RESPONDENT
UNITED STATES SECURITIES AND EXCHANGE COMMISSION
TO MOTION FOR ORDER PURSUANT TO CUSTOMER CHALLENGE PROVISIONS OF
THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

INTRODUCTION

David Schreiber and his wife, Rebecca T. Schreiber ("Schreibers"), have moved this Court, pursuant to the customer challenge provisions of the Right to Financial Privacy Act of 1978 ("RFPA"), 12 U.S.C. 3401 et seq., for an order quashing a Securities and Exchange Commission ("Commission") investigative subpoena seeking their bank records at Chase Manhattan Bank ("Chase"). 1/ The staff of the Commission ("staff") issued a subpoena to Chase on September 15, 1998, to produce bank records

1/ Because financial institutions may not disclose records sought until the Government has certified in writing that it has complied with the RFPA, 12 U.S.C. 3403(b), the filing of a customer challenge automatically stays production of the subpoenaed records. To minimize delay to agency investigations, the RFPA requires a court to rule upon a customer challenge within seven days of the Government's response to a motion to quash. 12 U.S.C. 3410(b); SEC v. Jerry T. O'Brien, Inc., 467 U.S. 735, 746 (1984).